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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,553	09/22/2003	Solomon Emeth	70203.010300	9994
33717	7590	01/31/2005	EXAMINER	
GREENBERG TRAUIG LLP 2450 COLORADO AVENUE, SUITE 400E SANTA MONICA, CA 90404			HOEY, ALISSA L	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/667,553	EMETH, SOLOMON	
	<b>Examiner</b>	<b>Art Unit</b>	
	Alissa L. Hoey	3765	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 December 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 22-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This is in response to amendment received on 12/30/04. Claims 1-21 have been cancelled and claims 22-28 have been newly added. Claims 22-28 are finally rejected below.

### ***Claim Objections***

2. Claim 22 is objected to because of the following informalities: the phrase "...to be worn on by an individual" is confusing. Should the term "on" be eliminated?

Appropriate correction is required.

3. Claim 22 is objected to because of the following informalities: should "a" be inserted between "having" and "flat appearance" in line 5? Appropriate correction is required.

4. Claim 24 is objected to because of the following informalities: "a first mating elements" is plural and "a second mating element" is singular. They should both be singular or plural to avoid confusion. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. Claims 22 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Counter (US 5,813,051).

In regard to claim 22, Counter teaches a garment (10) adapted to be worn by an individual and adapted to cover the individual's upper torso (10). The garment comprising a plurality of flaps (22, 24) integral with the garment and forming a border about at least a portion of the back panel (20). Each of the flaps (22, 24) having a flat appearance and a first side engaged with the garment (34, 28) and second free side spaced from the first side (26, 32). The flaps (22, 24) having an outer facing surface and an inner facing surface overlying the back panel (column 3, lines 19-25). A plurality of quick release fasteners (30, 36) disposed on the inner surface of the flaps (22, 24) and spaced from the free side and thereby hidden from view by the outer facing surface of the flaps (column 3, lines 19-25). A removable billboard panel (12) covering at least a portion of the back panel (20), the billboard panel (12) having a back surface overlying the back panel and a front surface having indicia thereon (46). The flaps (22, 24) overlying a portion of the billboard panel (12) front surface and said billboard panel front surface further including a plurality of quick release fastener (52, 57) for cooperating with and engaging the quick release fasteners on the inner surface of the flaps (30, 36).

In regard to claim 28, Counter teaches the mating elements comprising patches of mating hook and loop material (column 2, lines 46-67).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 23-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Counter in view of Rassner (US 2,647,261).

Counter teaches a garment with removable billboard panel as described above in claim 22. However, Counter fails to teach the first flap of the plurality of flaps extending along the upper portion of the back of the garment.

In regard to claim 23, Rassner teaches a first flap (21) extending along the upper portion of the back of the garment (17).

In regard to claim 24, Counter teaches the quick release fastener including a plurality of sets of mating elements, each set including a first mating element adapted to be releasably secured to a second mating element (column 2, lines 46-67).

In regard to claim 25, Counter teaches the first mating elements (30, 36) are provided on the underside of the flaps (22, 24).

In regard to claim 26, Counter teaches the second mating element (52, 57) being provided on the side of the billboard panel away from the back of the garment (20).

In regard to claim 27, Counter teaches the flaps (22, 24) normally covering the first and second mating elements when the billboard panel is removably secured to the garment (column 3, lines 19-26).

It would have been obvious to have provided the removable billboard garment of Counter with the flap extending along the top of the garment of Rassner, since the removable billboard garment of Counter provided with a flap extending along the top of

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the garment would provide the billboard panel to be attached to the garment more securely and protecting the top edge of the billboard panel from getting caught on other objects.

***Response to Arguments***

9. Applicant's arguments with respect to claims 22-28 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

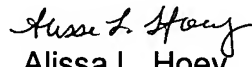
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Alissa L. Hoey  
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Technology Center 3700